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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GOOGLE LLC,

Plaintiff and Counterdefendant,

v.

SONOS, INC.,

Defendant and Counterclaimant.

Case No. 3:20-cv-06754-WHA
Related to Case No. 3:21-cv-07559-WHA

**DECLARATION OF COLE B.
RICHTER IN SUPPORT OF
GOOGLE'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED (DKT. 484)**

I, Cole B. Richter, declare as follows and would so testify under oath if called upon to do so:

1. I am an attorney with the law firm of Lee Sullivan Shea & Smith LLP, counsel of record to Sonos, Inc. (“Sonos”) in the above-captioned matter. I am a member in good standing of the Bar of the State of Illinois. I have been admitted *pro hac vice* in this matter. I make this declaration based on my personal knowledge, unless otherwise noted. If called, I can and will testify competently to the matters set forth herein.

2. I make this declaration in support of Google’s Administrative Motion to Consider Whether Another Party’s Material Should be Sealed filed on February 7, 2023 (Dkt. 484) (“Administrative Motion to Consider”), in connection with Google LLC’s Motion for Summary Judgment (“Motion”).

3. Sonos seeks an order sealing the materials as listed below¹:

Document	Portions Google Sought to Be Filed Under Seal	Portions Sonos Seeks to Be Filed Under Seal	Designating Party
Exhibit 1 to Motion	Entire document	Portions highlighted in blue ²	Sonos
Exhibit 6 to Motion	Entire document	Portions highlighted in blue	Sonos
Exhibit 8 to Motion	Entire document	Portions highlighted in blue	Sonos
Exhibit 9 to Motion	Entire document	Entire document	Sonos
Exhibit 13 to Motion	Entire document	Entire document	Sonos

4. I understand that the Ninth Circuit has recognized two different standards that may apply to a request to seal a document, the “compelling reasons” standard and the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). The compelling reasons standard applies to any sealing request made in

¹ Google’s Administrative Motion to Consider also seeks to seal portions of Google’s Motion and Exhibits 2, 3, 14, 19 and 21. Sonos’s advises that Google’s Motion and Exhibits 2, 3, 14, 19 and 21 do not contain Sonos confidential information and/or material.

² The portions outlined in red boxes in Exhibit 1 were identified and prepared by Google. See Dkt. 482 (Google’s Administrative Motion).

1 connection with a motion that is “more than tangentially related to the merits of a case.” *Id.*
 2 Accordingly, I understand courts in this district apply a “compelling reasons” standard to a
 3 sealing request made in connection with a motion for summary judgment. *See, e.g., Snapkeys,*
 4 *Ltd. v. Google LLC*, No. 19-CV-02658-LHK, 2021 WL 1951250, at *2 (N.D. Cal. May 14, 2021).

5 5. I further understand that confidential technical information about product features,
 6 architecture, and development satisfies the “compelling reason” standard. *See Delphix Corp. v.*
 7 *Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding
 8 compelling reasons to seal where court filings contained “highly sensitive information regarding
 9 [an entity’s confidential] product architecture and development”); *Guzik Tech. Enters., Inc. v. W.*
 10 *Digital Corp.*, No. 5:11-CV-03786-PSG, 2013 WL 6199629, at *4 (N.D. Cal. Nov. 27, 2013)
 11 (sealing exhibit containing “significant references to and discussion regarding the technical
 12 features” of a litigant’s products). Under this “compelling reasons” standard, the Court should
 13 order the above-listed documents sealed.

14 6. The portions highlighted in blue in Exhibits 1, 6, and 8 reference and contain Sonos’s
 15 confidential business information and trade secrets, including details regarding the source code,
 16 architecture, technical operation of various products and research and development processes.
 17 The specifics of how these functionalities and processes operate is confidential information that
 18 Sonos does not share publicly. Thus, public disclosure of such information may lead to
 19 competitive harm as Sonos’s competitors could use these details regarding the architecture,
 20 functionality, and processes of these products to gain a competitive advantage in the marketplace
 21 with respect to their competing products. A less restrictive alternative than sealing said
 22 documents would not be sufficient because the information sought to be sealed is Sonos’s
 23 confidential business information and trade secrets and Google contends that this information is
 24 necessary to Google’s Motion. *See Declaration of Jocelyn Ma in Support of Google LLC’s*
 25 *Administrative Motion to Seal*, ¶¶ 4 and 5 (Dkt. 482-1).

26 7. The entirety of Exhibits 9 and 13 reference and contain Sonos’s confidential business
 27 information and trade secrets, including details regarding the architecture, technical operation of
 28

1 various products and research and development processes. The specifics of how these
2 functionalities and processes operate is confidential information that Sonos does not share
3 publicly. Thus, public disclosure of such information may lead to competitive harm as Sonos's
4 competitors could use these details regarding the architecture, functionality, and processes of
5 these products to gain a competitive advantage in the marketplace with respect to their competing
6 products. A less restrictive alternative than sealing said documents would not be sufficient
7 because the information sought to be sealed is Sonos's confidential business information and
8 trade secrets and Google contends that this information is necessary to Google's Motion. *See*
9 Declaration of Jocelyn Ma in Support of Google LLC's Administrative Motion to Seal, ¶¶ 4 and 5
10 (Dkt. 482-1).

11 8. Sonos's request is narrowly tailored to protect its confidential information.

12 9. Sonos's unredacted and highlighted versions of Exhibits 1, 6 and 8 accompany this
13 declaration. Redacted versions may be filed once Google's Administrative Motion is ruled on.

14 I declare under penalty of perjury that the foregoing is true and correct to the best of my
15 knowledge. Executed this 13th day of February, 2023 in Chicago, Illinois.

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17 /s/ Cole B. Richter

18 COLE B. RICHTER
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